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OFFICE OF PETITIONS

In re Application of :
Murdock et al. : DECISION ON PETITION
Application No. 10/037,280 :
Filed: 4 January, 2002 :
Attorney Docket No. LEAR 0960 R :
/ 11609 :

This is a decision on the petition filed on 20 October, 2005, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.¹

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On 4 January, 2002, the application was filed as an application for reissue of U.S. Patent No. 6,010,174.
2. On 12 April, 2002, a declaration in compliance with 37 CFR 1.63 and 1.175 was filed, naming Jay A. Murdock, Edward G. Curtindale, and Ryan E. Dillingham as joint inventors.
3. On 9 August, 2005, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply.

¹ Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

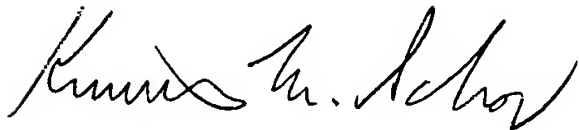
4. On 20 October, 2005, an amendment was filed, along with a supplemental reissue declaration, and the present petition, whereby petitioners assert that joint inventor Ryan E. Dillingham cannot be located to sign and return the supplemental declaration.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of Ryan E. Dillingham on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Dillingham on the supplemental declaration filed on 20 October, 2005.

CONCLUSION

1. The petition is granted.
2. It is noted that petitioners submitted \$130.00 with the present petition. Effective 8 December, 2004, however, the fee for a petition under 37 CFR 1.183 is \$400.00. As such, the balance of \$270.00 will be charged to counsel's deposit account, No. 02-3978 as authorized on the application transmittal sheet filed on 4 January, 2002.
3. The application is being referred to Technology Center Art Unit 3612 for further processing.
4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.
5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.



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